

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

GP INDUSTRIES, INC.,)
a Nebraska Corporation,)
)
 Plaintiff and,) 8:06CV50
 Counter Defendant,)
 vs.) ORDER
)
JAMES E. BACHMAN,)
)
 Defendant)
)
ERAN INDUSTRIES, INC.,)
a Nebraska corporation,)
)
 Defendant,)
 Counter Claimant and)
 Third-Party Plaintiff,)
)
 vs.)
)
LANCE D. BAILEY, et al.,)
)
 Third-Party Defendants.)
)
)
ERAN INDUSTRIES, INC.,)
a Nebraska corporation,)
)
 Plaintiff,) 8:06CV51
)
 vs.)
)
GP INDUSTRIES, LLC, a Nebraska)
Limited Liability Company, et al.,) ORDER
)
 Defendants.)

This matter is before the court on Eran Industries, Inc.'s ("Eran's") motion, Filing No. 175, to withdraw its motion to dismiss the third claim for relief of the counterclaim of GP Industries, LLC, Lance D. Bailey, Randall R. Bailey, Brian M. Beck, David R.

Herdrich, and Joshua Hesse (hereinafter, collectively, "GPI"), Filing No. 144, for failure to plead fraud with particularity. The court finds the motion should be granted. Accordingly, Eran's motion to dismiss, Filing No. 144, will be deemed withdrawn.

IT IS ORDERED:

1. Eran Industries, Inc.'s motion to withdraw is granted.
2. Eran's motion to dismiss GPI's third claim for relief, Filing No. 144, is deemed withdrawn.
3. GPI shall have ten days from the date of this order to reply to the counterclaim's third claim for relief.

DATED this 6th day of October, 2006.

BY THE COURT:

s/JOSEPH F. BATAILLON
United States District Judge